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7 NORTEK AIR SOLUTIONS, LLC,
8 Plaintiff,
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10 v.
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12 DMG CORPORATION, et al.,
13 Defendants.
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15 Case No. [14-cv-02919-BLF](#)

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28 **ORDER REGARDING SEALING
MOTIONS PERTAINING TO MOTIONS
IN LIMINE**

[Re: ECF 224, 240, 251, 253, 254]

Before the Court are the parties' administrative motions to file under seal portions of their briefing and exhibits in connection with the parties' motions in limine. ECF 224, 240, 251, 253, 254. For the reasons stated below, the motions are GRANTED IN PART AND DENIED IN PART

17 **I. LEGAL STANDARD**

18 "Historically, courts have recognized a 'general right to inspect and copy public records
19 and documents, including judicial records and documents.'" *Kamakana v. City and Cnty. of
20 Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc'ns, Inc.*, 435
21 U.S. 589, 597 & n.7 (1978)). Consequently, access to motions and their attachments that are
22 "more than tangentially related to the merits of a case" may be sealed only upon a showing of
23 "compelling reasons" for sealing. *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092,
24 1101–02 (9th Cir. 2016). Filings that are only tangentially related to the merits may be sealed
25 upon a lesser showing of "good cause." *Id.* at 1097.

26 In addition, sealing motions filed in this district must be "narrowly tailored to seek sealing
27 only of sealable material." Civil L.R. 79-5(b). A party moving to seal a document in whole or in
28 part must file a declaration establishing that the identified material is "sealable." Civ. L.R. 79-

1 5(d)(1)(A). “Reference to a stipulation or protective order that allows a party to designate certain
 2 documents as confidential is not sufficient to establish that a document, or portions thereof, are
 3 sealable.” *Id.*

4 II. DISCUSSION

5 The Court has reviewed the parties’ sealing motions and respective declarations in support
 6 thereof. The Court finds the parties have articulated compelling reasons to seal certain portions of
 7 most of the submitted documents. The proposed redactions are also narrowly tailored. The
 8 Court’s rulings on the sealing request are set forth in the tables below:

9 A. ECF 224

10 Identification of Documents to be Sealed	11 Description of Documents	12 Court’s Order
13 MIL No. 1. Redacted at 14 pgs.: 1:17, 21; 2:26-27, 15 28; 3:1-4, 5-6, 8, 13, 15- 16, 17, 17-18, 22-23; 17 3:24-4:2; 4:7-8, 10-11, 18 12-13, 14-15, 21-22; 5:7- 19 8, 10, 11-12, 13.	20 Nortek confirms Defendants’ request to seal the 21 redactions to Motion in Limine No. 1 as to 1:17, 22 3:8, 13, 15-18, 22-25, 4:1-2, 7-8, 10-11. Nortek 23 has additionally proposed redactions to 4:7-17. 24 25 This language proposed for redaction contains 26 confidential information about customer demand, 27 pricing, and internal market surveys.	28 GRANTED as to 1:17, 3:8, 13, 15- 18, 22-25, 4:1-2, 7-8, 10-11, and 4:7-17 and DENIED as to remainder.
29 MIL No. 2. Redacted at 30 pgs.: 3:4-5, 7-8, 8-11, 14- 31 16, 17-19; 5:15-16, 17- 32 18, 18-19, 19-20.	33 Nortek confirms Defendants’ request to seal the 34 redactions to Motion in Limine No. 2 as to 3:7-11. 35 The language proposed for redaction contains 36 confidential excerpts from the deposition of Dr. 37 Prowse explaining confidential information about 38 customer demand.	39 GRANTED as to 3:7-11 and DENIED as to remainder.
40 MIL No. 3. Redacted at 41 pgs.: 2:21-22; 4:2, 3, 13- 42 14, 14-15, 22-23, and 23- 43 24.	44 Nortek does not object to Motion in Limine No. 3 45 being filed publicly.	46 DENIED
47 MIL No. 4. Redacted at 48 pgs.: 2:23-25, 26-27, 28; 49 3:1-4, 10-11, 24-27; 3:28- 50 4:2; 4:18-19, 21-22; 5:4, 51 8, 9-10.	52 Nortek does not object to Motion in Limine No. 4 53 being filed publicly.	54 DENIED
55 Exhibits 1, 2, 3, 4, and 5 56 to MIL No. 1	57 Confidential internal Nortek analysis that divulges 58 internal, competitive-analysis and technical 59 information regarding features included in various 60 projects	61 GRANTED
62 Exhibits 6, 7, 8, 9, and 10 63 to MIL No. 1	64 Contains confidential business information 65 detailing Nortek’s economic analysis, pricing, and 66 technical documents detailing design, components, 67 and technical features of specific Nortek products 68 and its customers’ facilities including sensitive 69 details regarding customer pricing	70 GRANTED

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1	Exhibit 13 to MIL No. 1	Contains confidential business information detailing both Nortek's economic analysis, pricing, and products.	GRANTED
2	Exhibits 14, 15, 16, and 17 to MIL No. 1	Contains confidential business information detailing Nortek's economic analysis, pricing, and competition including sensitive details regarding customer pricing.	GRANTED
3	Exhibit 18 to MIL No. 1	Nortek does not object to Exhibit 18 being filed publicly. Defendants' Confidential Information (or that of its customers) redacted at: 18 (technical information); 13- 17, 18 (customer information).	GRANTED as to 18 and 13-17, 18 and DENIED as to remainder.
4	Exhibit 1 to MIL No. 2	Contains confidential business information detailing Nortek's economic analysis, pricing, and technical documents detailing design, components, and technical features of specific Nortek products and their customers' facilities including sensitive details regarding customer pricing	GRANTED
5	Exhibit 2 to MIL No. 2	Nortek does not object to Exhibit 2 being filed publicly. Defendants' Confidential Information (or that of its customers) redacted at: 22 (financial information).	GRANTED as to 22 and DENIED as to remainder.
6	Exhibit 3 to MIL No. 2	Contains confidential business information detailing Nortek's economic analysis, pricing, and technical documents detailing design, components, and technical features of specific Nortek products and their customers' facilities including sensitive details regarding customer pricing	GRANTED
7	Exhibit 5 to MIL No. 2	Nortek does not object to Exhibit 5 being filed publicly. Defendants' Confidential Information (or that of its customers) redacted at: 18, (technical information); 13-17, 18 (customer information).	GRANTED as to 13-17, and 18 and DENIED as to remainder.
8	Exhibit 1 to MIL No. 3	Contains confidential business information detailing Nortek's economic analysis, pricing, and technical documents detailing design, components, and technical features of specific Nortek products and their customers' facilities including sensitive details regarding customer pricing	GRANTED
9	Exhibit 2 to MIL No. 3	Nortek does not object to Exhibit 2 being filed publicly.	DENIED
10	Exhibit 3 to MIL No. 3	Contains confidential business information detailing design, components, internal business analysis, and technical features of specific Nortek products.	GRANTED
11	Exhibit 1 to Motion in Limine No. 4	Nortek does not object to Exhibit 1 being filed publicly.	GRANTED as to 13 and 14, and Exhibit 1 at 2-8,
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1	Defendants' Confidential Information (or that of its customers) redacted at: Pgs. 13 and 14, and Exhibit 1, Pgs. 2-8 (technical information); Exhibit 1, pg. 2 (customer information)	and DENIED as to remainder.
2	Exhibit 2 to MIL No. 4	Nortek does not object to Exhibit 2 being filed publically.
3	Exhibit 3 to MIL No. 4	Nortek does not object to Exhibit 3 being filed publically.
4	Exhibit 4 to MIL No. 4	Contains confidential business information detailing Nortek's economic analysis, pricing, and technical documents detailing design, components, and technical features of specific Nortek products and their customers' facilities including sensitive details regarding customer pricing
5	Exhibit 5 to MIL No. 4	Nortek does not object to Exhibit 5 being filed publically.
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B. ECF 240

Identification of Documents to be Sealed	Description of Documents	Court's Order
Opp. to Nortek's MIL No. 3	Nortek does not object to this document being filed publically. Defendants' Confidential Customer Information Redacted at pgs.: 3:3.	GRANTED as to 3:3 and DENIED as to remainder.
Opp. to Nortek's MIL No. 4	Contains confidential information about business acquisitions, damages, pricing, and internal business strategy. Nortek has additionally proposed redactions to 1:7-16, 17-22, 24-27, 2:1-4, 12-20, 26-28, 3:1, 10-11, 12- 14, 19-22, 23-25, and 4:23-24 as containing confidential information.	GRANTED
Opp. to Nortek's MIL No. 5	Contains confidential information about damages and litigation practices. Nortek has additionally proposed redactions to 2:8 and 5:3 as containing confidential information.	GRANTED
Exhibit 1 to Opp. to Nortek's MIL No. 1	Contains confidential business information detailing technical features of specific Nortek products and brands, and their customers' facilities. Defendants' redactions are narrowly tailored and limited to portions containing confidential Energy Labs technical information or private third party information.	GRANTED
Exhibit 3 to Opp. to Nortek's MIL No. 1	Confidential business information detailing revenue	GRANTED
Exhibit 8 to Opp. to Nortek's MIL No. 1	Contains confidential excerpts from technical documents detailing the design, components, and technical features of specific Energy Labs air-handling unit; information regarding its customers' facilities, and confidential competitive analyses.	GRANTED

1	Exhibit 1 to Opp. to Nortek's MIL No. 2	Contains confidential business information detailing technical features of specific Nortek products and brands, and their customers' facilities.	GRANTED
2	Exhibit 2 to Opp. to Nortek's MIL No. 2	Nortek does not object to this document being filed publically.	DENIED
3	Exhibit 3 to Opp. to Nortek's MIL No. 2	Confidential technical information concerning Nortek products and systems.	GRANTED
4	Exhibit 4 to Opp. to Nortek's MIL No. 2	Confidential technical information concerning Nortek products and systems.	GRANTED
5	Exhibit 1 to Opp. to Nortek's MIL No. 3	Confidential technical information concerning Nortek products.	GRANTED
6	Exhibit 2 to Opp. to Nortek's MIL No. 3	Nortek does not object to this document being filed publically.	DENIED
7	Exhibit 1 to Opp. to Nortek's MIL No. 4	Confidential internal Nortek business and pricing analysis, along with damages calculations, that would harm Nortek's business if publically filed	GRANTED
8	Exhibit 2 to Opp. to Nortek's MIL No. 4	Confidential internal strategy memorandum for Nortek and its internal brands.	GRANTED
9	Exhibit 4 to Opp. to Nortek's MIL No. 4	Confidential financial information belonging to Nortek	GRANTED
10	Exhibit 4: Exhibit 13 to Opp. to Nortek's MIL No. 4	Confidential internal Nortek analysis that divulges internal, competitive-analysis and business agreement information	GRANTED
11	Exhibit 1 to Opp. to Nortek's MIL No. 5	Nortek does not object to this document being filed publically.	DENIED
12	Exhibit 6 to Opp. to Nortek's MIL No. 5	Confidential internal Nortek business and pricing analysis	GRANTED
13	Exhibit 7 to Opp. to Nortek's MIL No. 5	Confidential internal Nortek business and pricing analysis that would harm Nortek's business if publically filed	GRANTED
14	Exhibit 8 to Opp. to Nortek's MIL No. 5	Confidential consulting agreement	GRANTED

C. ECF 251, 253, 254

Identification of Documents to be Sealed	Description of Documents	Court's Order
Nortek's Opp. to MIL No. 1	Contains Nortek's confidential pricing information. Defendants' confidential information is not implicated at 4:13-18.	GRANTED as to Nortek's confidential information and DENIED as to 4:13-18.
Nortek's Opp. to MIL No. 2	Contains Nortek's confidential business agreements. Defendants' confidential information redacted at: 2:1-2 (technical specifications); 2:8-14, 2:22-23, 2:25-27 (damages); 5:6-8, 5:9, 5:10, 5:13, 5:18 (business structure).	GRANTED
Nortek's Opp. to MIL No. 3	Contains Nortek's confidential business information and communications.	GRANTED

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1	Defendants' confidential information redacted at: 1:23-2:2, 2:7-9, 2:12-14, 2:20-23, 4:18-23 (business information).		
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4	Nortek's Opp. to MIL No. 4	Contains confidential technical information about Temtrol System. Defendants' confidential information is not implicated at: 1:26-2:1, 2:2-5, 2:6-8 (technical information); 2:9-10 (design information), 2:13, 2:17 (technical information); 4:12-15, 4:18-20, 4:23-24, 5:15 (design information).	GRANTED
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8	Exhibit 1 to Nortek's Opp. to MIL No. 1	Confidential information about Nortek's business practices and pricing	GRANTED
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10	Exhibit 2 to Nortek's Opp. to MIL No. 1	Confidential information about Nortek's competition and pricing information	GRANTED
11			
12	Exhibit 3 to Nortek's Opp. to MIL No. 1	Concerning confidential information about Nortek's business practices, competitive pricing	GRANTED
13			
14	Exhibit 4 to Nortek's Opp. to MIL No. 1	Concerning confidential information about Temtrol System, Nortek's business practices, competitive pricing and market strategy, brand management, and product analysis	GRANTED
15			
16	Exhibit 5 to Nortek's Opp. to MIL No. 1	Confidential information about business agreements, Nortek products information and technology analysis.	GRANTED
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18	Exhibit 7 to Nortek's Opp. to MIL No. 1	Contains confidential discussion regarding the product design, components, and technical features of Energy Labs products and specific customers' air-handling units and facilities, and private third party customer information	GRANTED
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20	Exhibit 8 to Nortek's Opp. to MIL No. 1	Contains confidential discussion regarding the product design, components, and technical features of Energy Labs products and specific customers' air-handling units and facilities, and private third party customer information	GRANTED
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22	Exhibit 9 to Nortek's Opp. to MIL No. 1	Proprietary information about Nortek's competitive analysis, product analysis and business strategy	GRANTED
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24	Exhibit 11 to Nortek's Opp. to MIL No. 1	Contains confidential business information about Temtrol, Nortek's pricing structure, and customer Information	GRANTED
25			
26	Exhibit 12 to Nortek's Opp. to MIL No. 1	Contains confidential discussion regarding the product design, components, and technical features of Energy Labs products and specific customers' air-handling units and facilities, and private third party customer information	GRANTED
27			
28	Exhibit 14 to Nortek's Opp. to MIL No. 1	Contains confidential discussion regarding the design and technical features of Energy Labs products and specific customers' air-handling units	GRANTED

1		and facilities, and private third party customer information	
2	Exhibit 3 to Nortek's Opp. to MIL No. 2	Contains confidential business agreements	GRANTED
3	Exhibit 4 to Nortek's Opp. to MIL No. 2	Contains confidential discussion regarding the business operations and sales compositions for Defendants	GRANTED
4	Exhibit 5 to Nortek's Opp. to MIL No. 2	Contains confidential information regarding Defendants financial and sales information, and private third party information regarding Defendants' customers	GRANTED
5	Exhibit 6 to Nortek's Opp. to MIL No. 2	Contains confidential information about Nortek's business agreements	GRANTED
6	Exhibit 7 to Nortek's Opp. to MIL No. 2	Contains confidential information about Nortek's business agreements	GRANTED
7	Exhibit 8 to Nortek's Opp. to MIL No. 2	Contains confidential information regarding Defendants financial and sales information, and private third party information regarding Defendants' customers	GRANTED
8	Exhibit 11 to Nortek's Opp. to MIL No. 2	Contains confidential information regarding Defendants financial and sales information, employee compensation, and technical details regarding specific customer's AHU installations	GRANTED
9	Exhibit 12 to Nortek's Opp. to MIL No. 2	Contains confidential information regarding Defendants business methods and processes, and technical details regarding Defendants' product offerings	GRANTED
10	Exhibit 1 to Nortek's Opp. to MIL No. 3	Proprietary information about Nortek's products, including their development	GRANTED
11	Exhibit 5 to Nortek's Opp. to MIL No. 3	Contains confidential discussion regarding development of Defendants' products	GRANTED
12	Exhibit 6 to Nortek's Opp. to MIL No. 3	Contains confidential information about Nortek's intellectual property in communication with Energy Labs	GRANTED
13	Exhibit 7 to Nortek's Opp. to MIL No. 3	Contains confidential discussion regarding development of Defendants' products	GRANTED
14	Exhibit 9 to Nortek's Opp. to MIL No. 3	Confidential internal analysis reflecting detailed technical information regarding a specific customer's air handling unit and installation	GRANTED
15	Exhibit 10 to Nortek's Opp. to MIL No. 3	Confidential internal technology and product analysis reflecting Energy Labs' investment of financial and technical resources	GRANTED
16	Exhibit 11 to Nortek's Opp. to MIL No. 3	Confidential information about Energy Labs' business plans, financial information, and competitive analysis	GRANTED
17	Exhibit 14 to Nortek's Opp. to MIL No. 3	Contains confidential information about Nortek's technical specifications	GRANTED
18	Exhibit 15 to Nortek's Opp. to MIL No. 3	Contains confidential information about Nortek's technical specifications	GRANTED
19	Exhibit 19 to Nortek's	Confidential internal technology and product	GRANTED

1	Opp. to MIL No. 3	analysis reflecting Energy Labs' investment of financial and technical resources	
2	Exhibit 20 to Nortek's Opp. to MIL No. 3	Confidential discussion regarding Defendants' products, confidential discussion regarding Defendants' product design, and information regarding Defendants' customers	GRANTED
3	Exhibit 1 to Nortek's Opp. to MIL No. 4	Confidential discussion regarding the design, components, and technical features of specific Energy Labs air-handling unit and its customers' facilities, and private third party customer information, including the components used in and structure of customers	GRANTED
4	Exhibit 2 to Nortek's Opp. to MIL No. 4	Proprietary information about Nortek's products and Temtrol System	GRANTED

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10 **III. ORDER**

11 For the foregoing reasons, the sealing motions at ECF 224, 240, 251, 253, 254 are
 12 GRANTED IN PART and DENIED IN PART. Under Civil Local Rule 79-5(e)(2), for any
 13 request that has been denied because the party designating a document as confidential or subject to
 14 a protective order has not provided sufficient reasons to seal, the submitting party must file the
 15 unredacted (or lesser redacted) documents into the public record no earlier than 4 days and no later
 16 than 10 days from the filing of this order.

17 **IT IS SO ORDERED.**

18 Dated: August 18, 2016

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 20 BETH LABSON FREEMAN
 21 United States District Judge